

## **MEMORANDUM**

**TO:** All Interested Parties

**FROM:** Jeffrey Hoagg  
Manager, Policy  
Telecommunications Division

**SUBJECT:** Notice of Workshop:  
Rulemaking to Establish Standards for Waivers of the Requirements of  
Illinois Public Utilities Act Section 13-517

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Section 13-517(a) of the Illinois Public Utilities Act (PUA) provides that:

Every Incumbent Local Exchange Carrier (telecommunications carrier that offers or provides a noncompetitive telecommunications service) shall offer or provide advanced telecommunications services to not less than 80% of its customers by January 1, 2005.

Section 13-517(b) of the PUA authorizes the Illinois Commerce Commission to grant “full or partial” waivers of this requirement, and authorizes the Commission to establish by rule “standards for granting any waiver of the requirements” of Section 13-517.

Staff will host a workshop to discuss a potential rulemaking to establish such standards. This workshop will take place on June 28, 2002, beginning at 9:30 am (central time). The Commission’s videoconference facilities will be utilized so parties may attend in the Commission’s Chicago offices at 160 North LaSalle Street, or the Commission’s Springfield offices at 527 East Capitol Avenue.

Attached to this Notice are two potential rules drafted by Commission Staff. Staff hopes that these draft documents will serve to focus discussion at the June 28, 2002 workshop.

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

PART 733  
WAIVERS FROM AND MONITORING REPORTS FOR  
SECTION 13-517 OF THE PUBLIC UTILITIES ACT

Section	
733.10	Definitions
733.15	Applicability
733.20	Application for Waiver
733.30	Notice of Waiver Application
733.40	Deadline for Waiver Application
733.50	Monitoring

AUTHORITY: Implementing and authorized by Section 13-517 of the Public Utilities Act [220 ILCS 5/13-517].

SOURCE: Adopted at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 733.10 Definitions

“Act” or “Public Utilities Act” means the Public Utilities Act [220 ILCS 5].

“Advanced Telecommunications Service,” *means services capable of supporting, in at least one direction, a speed in excess of 200 kilobits per second (kbps) to the network demarcation point at the subscriber’s premises as defined in Section 13-517(c) of the Act.*

“Commission” means the Illinois Commerce Commission.

“Customer” means a person, corporation, partnership, firm, municipality, cooperative, organization, governmental agency, building owner, or other entity that is rendered a bill for retail telecommunications services provided for its own consumption, and not for resale.

“Incumbent local exchange carrier” (“ILEC”) means the same as the term is defined in Section 13-202.5 of the Act [220 ILCS 5/13-202.5].

Section 733.15 Applicability

This Part applies to ILECs subject to the requirements of Section 13-517 of the Public Utilities Act.

Section 733.20 Application for Waiver

- a) Any telecommunications carrier may apply under Section 13-517 of the Public Utilities Act *FOR A WAIVER FROM THE REQUIREMENT FOR THE PROVISION OR OFFERING OF ADVANCED TELECOMMUNICATIONS SERVICES* [220 ILCS 5/13-517(a)].
- b) An applicant requesting waiver shall file a verified petition as required by the Commission Rules of Practice (83 Ill. Adm. Code 200). The applicant shall attach to its verified petition for waiver any accounting, economic, financial, and technical information that the applicant wishes to be considered in support of its petition. Copies of all notifications to customers concerning the application for waiver also shall be attached. All applicants also shall provide the following:
  - 1) Description of service territory and exchanges for which waiver is being sought;
  - 2) Identification of the specific condition(s) or provision(s) of Section 13-517(b), ~~(1)~~ and ~~(2)~~ under which the waiver is being sought;
  - 3) All information required by Section 733.50 of this part, current as of the date of filing of the waiver petition.
- c) Applicants requesting a waiver pursuant to the terms of Section 13-517(b)(1)(A), 13-517(b)(1)(B), or 13-517(b)(1)(D) of the Act shall provide, in addition to the information required under Section 733.20(b) of this part, the following:
  - 1) Projected costs of providing the advanced telecommunications services required pursuant to Section 13-517 of the Act;
  - 2) Projected revenues from the provision of the advanced telecommunications services required pursuant to Section 13-517 of the Act;
  - 3) Pro-forma financial statements both with and without the effects of providing the advanced telecommunications services required pursuant to Section 13-517 of the Act;
  - 4) The principal assumptions used in preparing and providing all information required by Section 733.20(c)(1) through (c)(3).
- d) Applicants requesting a waiver pursuant to the terms of Section 13-517(b)(1)(C) of the Act shall provide, in addition to the information required under Section 733.20(b) of this part, a description of any technical factors that prevent advanced services from being deployed. This description shall include, but not be limited to, a description and technical analysis of outside plant facilities and central office equipment.

- e) In determining whether to grant an application for waiver or modification under this Section, the Commission shall use the standards set forth in Section 13-517 of the Act.

#### Section 733.30 Notice of Application for Waiver

An ILEC seeking a waiver of the requirements of Section 13-517 shall notify all customers in its service area within seven calendar days after filing an application for waiver. This notice shall be made by announcement in a newspaper of general circulation in the geographic areas served by the ILEC. This announcement shall appear in the newspaper on three consecutive publication dates. The petitioner also shall provide notice through a [direct mailing to all potentially affected customers of the ILEC prior to or concurrent with submission of an application for waiver. The direct mail notice shall state the reason\(s\) for the waiver application; state the anticipated affect of the waiver request on ILEC customers; and describe customer opportunities for a hearing on the waiver request.](#)

#### Section 733.40 Deadline for Application for Waiver

Applications for waiver of the requirements of Section 13-517(a) shall be filed no later than July 1, 2004.

#### Section 733.50 Monitoring

- A. Every ILEC shall report to the Commission on its deployment of advanced telecommunications services. Reports shall be filed on March 1, 2003; March 1, 2004; and March 1, 2005. Reports shall include:
  - a) The total number of customers served by the ILEC;
  - b) The number of customers either offered or provided advanced telecommunications services by the ILEC;
  - c) The number of customers provided (i.e., receiving) advanced telecommunications services by the ILEC;
  - d) Description of any technologies utilized to offer or provide advanced telecommunications services;
  - e) Where more than one technology is utilized in the provision of advanced services, the number of customers offered or provided advanced services telecommunications by each technology.

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

PART 733  
PROVISION OF ADVANCED TELECOMMUNICATIONS SERVICES

SUBPART A: GENERAL PROVISIONS

Section	
733.10	Applicability
733.20	Definitions
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733.40	Monitoring

SUBPART B: WAIVERS

Section	
733.100	Waiver
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733.150	Commission Action Upon Petition
733.160	Reconsideration of Waiver

AUTHORITY: Implementing and authorized by Section 13-517 of the Public Utilities Act [220 ILCS 5/13-517]

SOURCE: Adopted at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

Section 733.10 Applicability

This Part applies to Incumbent Local Exchange Carriers (ILECs) subject to the requirements of Section 13-517 of the Public Utilities Act [220 ILCS 5/13-517].

Section 733.20 Definitions

Terms used in this Part have the following meanings:

"Act" or "Public Utilities Act" means the Public Utilities Act [220 ILCS 5].

"Advanced telecommunications services" *means services capable of*

*supporting, in at least one direction, a speed in excess of 200 kilobits per second (kbps) to the network demarcation point at the subscriber's premises [220 ILCS 5/13-517(c)].*

"Commission" means the Illinois Commerce Commission.

"*Customer*" means a person, corporation, partnership, firm, municipality, cooperative, organization, governmental agency, building owner, or other entity that is rendered a bill for retail telecommunications services provided for its own consumption, and not for resale.

"Incumbent local exchange carrier" (ILEC) means the same as the term is defined in Section 13-202.5 of the Act [220 ILCS 5/13-202.5].

### Section 733. 30 Provision of Advanced Telecommunications Services

*Every ILEC shall offer or provide advanced telecommunications services to not less than 80% of its customers by January 1, 2005. [220 ILCS 5/13-517(a)]*

### Section 733.40 Monitoring

Every ILEC shall report to the Commission on its deployment of advanced telecommunications services. Reports shall be filed on March 1, 2003, March 1, 2004 and March 1, 2005. Reports shall include:

- a) The number of customers served by the ILEC;
- b) The number of customers offered advanced telecommunications services by the ILEC;
- c) The number of customers actually provided advanced telecommunications services by the ILEC;
- d) Description of technologies used to offer or provide advanced telecommunications services;
- e) The number of customers offered or actually provided advanced telecommunications services by each technology, where more than one technology is used; and
- f) Future implementation schedules for advanced telecommunications services.

### SUBPART B: WAIVERS

## Section 733.100 Waiver

*The Commission is authorized to grant a full or partial waiver of the requirements of Section 13-517(a) of the Act upon verified petition of any ILEC that demonstrates that full compliance with the requirements of Section 13-517(a) of the Act would be unduly economically burdensome or technically infeasible or otherwise impractical in exchanges with low population density. [220 ILCS 5/13-517(b)]*

## Section 733.110 Applications for Waiver

- a) Any ILEC may petition under Section 13-517(b) of the Public Utilities Act for a waiver of the requirements of Section 13-517(a) of the Act.
- b) An ILEC shall attach to its verified petition for waiver any accounting, economic, financial, and technical information that the applicant wishes to be considered in support of its petition.
- c) A verified petition for waiver under Section 13-517(b) of the Act shall include, at a minimum, the following:
  - 1) Description of service territory, list of exchanges, and number of potentially affected customers for which waiver is sought;
  - 2) Identification of the specific condition(s) or provision(s) of Section 13-517(b) under which waiver is sought;
  - 3) All information required by Section 733.40, current as of the date the petition is filed;
  - 4) Projected cost of providing the advanced telecommunications services required by Section 13-517(a);
  - 5) Projected revenues from the provision of the advanced telecommunications services required by Section 13-517(a);
  - 6) Pro-forma financial statements both with and without the effects of providing the advanced telecommunications services required by Section 13-517(a) of the Act;
  - 7) The principal assumptions used in preparing the pro-forma financial statements required by subsection (6); and
  - 8) A copy of all notices required by Section 733.130.

## Section 733.120 Grant of Application for Waiver

*The Commission shall grant a petition for waiver to the extent that, and for such duration as, the Commission determines that such waiver:*

- a) *is necessary:*
  - 1) *to avoid a significant adverse economic impact on users of telecommunications services generally;*
  - 2) *to avoid imposing a requirement that is unduly economically burdensome;*
  - 3) *to avoid imposing a requirement that is technically infeasible; or*
  - 4) *to avoid imposing a requirement that is otherwise impractical to implement in exchanges with low population density; and*
- b) *is consistent with the public interest, convenience, and necessity.* [220 ILCS 5/13-517(b)]

#### Section 733.130 Notice of Application for Waiver

An ILEC seeking a waiver of the requirements of Section 13-517(a) shall notify all potentially affected customers in its service area. Notification shall be made:

- a) By announcement in a newspaper of general circulation in the geographic area served by the ILEC no more than seven calendar days before filing its petition for waiver. The announcement shall appear in the newspaper on three consecutive publication dates; and
- b) By a direct mailing to all potentially affected customers of the ILEC prior to the filing of a petition. The direct mail notice shall state the reasons for the waiver request, state the anticipated effect of the waiver request in those customers, and inform those customers of the opportunity to request a hearing on the waiver request at the Commission.

#### Section 733.140 Deadline for Application for Waiver

Petitions for waiver of the requirements of Section 13-517(a) of the Act shall be filed no later than July 1, 2004.

#### Section 733.150 Commission Action Upon Petition

*The Commission shall act upon any petition filed under Section 13-517(b) of the Act within 180 days after receiving the petition.* [220 ILCS 5/13-517(b)]

#### Section 733.160 Reconsideration of Waiver



- a) *The Commission may, upon complaint or on its own motion, hold a hearing to reconsider its grant of a waiver in whole or in part. In the event that the Commission, following hearing, determines that the affected ILEC no longer meets the requirements of Section 733.200(b), the Commission shall by order rescind such waiver, in whole or in part.*
- b) In the event and to the degree the Commission rescinds such waiver, the Commission shall establish an implementation schedule for compliance with the requirements of *Section 13-517 of the Act. [220 ILCS 5/13-517]*